

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6360

BILL NUMBER: SB 144

NOTE PREPARED: Jan 11, 2012

BILL AMENDED: Jan 10, 2012

SUBJECT: Sales Tax on Tobacco Tax Stamping Equipment.

FIRST AUTHOR: Sen. Kenley

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides an exemption from the state gross retail tax for tangible personal property acquired for the exclusive purpose of complying with the state tobacco tax laws.

It also changes the wholesale price on which the tobacco products tax is based (excludes cigarettes and moist snuff) to make the wholesale price the net price as shown on the manufacturer's invoice, excluding any discount or other reduction that is not shown on the invoice.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Department of State Revenue (DOR):* This bill will result in an increase in administrative costs for the DOR by requiring the DOR to revise Sales Tax forms as well as update computer software to incorporate the Sales Tax exemption proposed in the bill. It is estimated that the DOR will be able to implement this provision with its existing level of resources.

Explanation of State Revenues: *Sales Tax Exemption for Tobacco Stamping Equipment:* This bill would decrease Sales Tax revenue by an indeterminable amount. The bill provides an exemption from the Sales Tax for tangible personal property acquired for the exclusive purpose of complying with the state tobacco tax laws.

The extent of the decrease would depend on the prices and sales of tobacco tax stamping equipment. Prices of such equipment could range from about \$5,000 to \$10,000 for hand-held stamping machines and about \$100,000 for automated stamping machines.

(Revised) *Other Tobacco Products:* This bill provides that for the purpose of the tobacco tax statute,

"wholesale price" means the *net price* shown on an invoice and at which the manufacturer of the tobacco products sells tobacco products to distributors, excluding any discount or other reduction that is not shown on the invoice. Under current statute "wholesale price" means the *price* at which the manufacturer of the tobacco products sells tobacco products to distributors, excluding any discount or other reduction. The impact of this change is indeterminable and dependent on whether the manufacturers were remitting the tax on the base with the discount or on the base prior to the discount. If the manufacturers were remitting on the after-discount price, then there would be no change in the amount of revenue that the state would see from this change. However, if the manufacturers were remitting taxes based on the prediscount price as specified in current statute, then the state would receive less revenue from this provision. Other tobacco products are taxed at a rate of 24% of the wholesale price. In FY 2011, other tobacco tax revenue totaled \$32.4 M.

(Revised) **Background Information:** Under current statute, cigarette distributors are responsible for affixing tax stamps to each cigarette package they distribute in Indiana. They use a stamping machine or a hand-held stamping device to place the stamp on each individual cigarette package.

Sales Tax revenue is deposited in the state General Fund (99.848%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Of the Tobacco Products Tax revenue, 25% is distributed to the Affordable Housing and Community Development Fund. The remaining revenues are allocated to Medicaid reimbursements (2.46%), Cigarette Tax Fund (4.22%), the Mental Health Centers Fund (0.6%), the state General Fund (54.5%), the Pension Relief Fund (5.43%), the State Retiree Health Benefit Trust Fund (5.74%), and the Check-Up Plan Trust Fund (27.05%).

Explanation of Local Expenditures:

Explanation of Local Revenues: Local revenues will be impacted to the extent that a local unit receives funds from the Commuter Rail Service Fund or the Industrial Rail Service Fund.

State Agencies Affected: DOR.

Local Agencies Affected:

Information Sources: *Changing the Cigarette Tax Stamp: Feasibility Study Report*, November 1, 2009; Tom Conley, DOR, 317-232-2107.

Fiscal Analyst: Diana Agidi, 317-232-9867.